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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 R.K.,)
10)
11 Plaintiff,) CASE NO. C04-2338RSM
12 v.)
13 THE CORPORATION OF THE PRESIDENT) ORDER GRANTING
OF THE CHURCH OF JESUS CHRIST) MOTION IN LIMINE
14 OF LATTER DAY SAINTS, *et al.*,)
15 Defendants.)

16 This matter comes before the Court on defendants' Motion In Limine to exclude evidence
17 of Mr. LoHolt's other acts of abuse, damages suffered by other victims, and defendants'
18 settlements with other victims. (Dkt. #131). Defendants argue that this evidence is not relevant
19 to plaintiff's claims or any other issue in this case. Plaintiff opposes the motion, arguing that
20 such evidence is relevant and necessary to proving his claims and damages. (Dkt. #138).

21 Having reviewed defendants' motion, plaintiff's opposition, defendants' reply,¹ the
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24 ¹ The Court notes that defendants have impermissibly filed an overlength reply to
25 plaintiff's response. Pursuant to Local Rule CR 7(e)(4), defendants are allowed six pages in
26 reply, but they have filed 12 pages without having received prior permission from this Court.
Because plaintiff has not asked this Court to strike the overlength portion, the Court will not do
so. However, defendants are hereby reminded of the Court's rules on the length of briefing, and
are advised that any further overlength briefs will be stricken from the record unless prior
permission is sought and granted for the overlength pages.

1 declarations and exhibits in support of those briefs, and the remainder of the record, the Court
2 hereby finds and ORDERS:

3 (1) Defendants' Motion In Limine (Dkt. #131) is GRANTED as follows:

4 a. Defendants first ask this Court to exclude evidence of Mr. LoHolt's abuse of other
5 victims. However, defendants specifically note that one other act of abuse, Mr. LoHolt's abuse
6 of Scott Pettit, is excluded from the instant motion because it is admittedly relevant and is
7 addressed in a separate motion in limine. Plaintiff argues that such evidence is necessary to
8 prove notice, to corroborate the fact that plaintiff was abused, and to show a common scheme of
9 abuse by Mr. LoHolt. The Court finds plaintiff's arguments misguided.

10 First, the Court finds that evidence of Mr. LoHolt's abuse of other victims is not relevant
11 or necessary to the notice issue in this case. Defendants admit that the Corporation of the
12 President of the Church of Jesus Christ of Latter Day Saints ("COP") received a report of Mr.
13 LoHolt's abuse of Scott Pettit, and has specifically stated that this motion to exclude does not
14 apply to that report. Although plaintiff argues that there was a second report to COP of Mr.
15 LoHolt's abuse, plaintiff has produced no evidence of such second report, and cites to nothing in
16 the record in support of that assertion. Accordingly, the Court agrees with defendants that
17 evidence of Mr. LoHolt's abuse of other victims is not relevant to the notice issue.

18 Second, the Court finds that evidence of Mr. LoHolt's abuse of other victims is not
19 relevant or necessary to prove the fact that plaintiff was actually abused. Defendants admit that
20 plaintiff was abused, and represent that they will not produce the portion of Mr. LoHolt's
21 deposition denying the abuse at trial. Furthermore, Mr. LoHolt, a resident of Canada, has made
22 clear that he will not testify at trial; thus, there is no dispute and will be no dispute that plaintiff
23 was actually abused by Mr. LoHolt. Defendants concede that, to the extent plaintiff seeks
24 corroboration of his abuse through the testimony of others, he can do so, and this motion does
25 not seek to exclude such evidence.

26 Finally, the Court finds that common scheme evidence is irrelevant because Mr. LoHolt's

1 abuse of plaintiff will not be disputed. Accordingly, the Court agrees that evidence of Mr.
2 LoHolt's abuse of other victims should be excluded.

3 b. Next, defendants ask this Court to exclude evidence of damage to other victims from
4 this action. Plaintiff argues that such damages evidence is necessary so that the jury will know
5 the severity of damages that can flow from sexual abuse. Such evidence is appropriately
6 introduced through expert witnesses, such as plaintiff's Dr. Conte. The Court agrees with
7 defendants that the damages of others, who have different life experiences and psychological
8 makeups from plaintiff, are not relevant to determining the damages that actually occurred to
9 plaintiff. Accordingly, the Court will exclude evidence of damages to other victims.

10 c. Last, defendants ask this Court to exclude evidence of settlement with other victims.
11 Plaintiff does not oppose that request. Accordingly, the Court will exclude from trial any
12 evidence of settlement with other victims.

13 (2) The Clerk shall send a copy of this Order to all counsel of record.

14 DATED this 28 day of August, 2006.

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16 RICARDO S. MARTINEZ
17 UNITED STATES DISTRICT JUDGE
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